

# Town of Lamoine Snow Removal Contract

This agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by and between THE INHABITANTS OF THE TOWN OF LAMOINE, County of Hancock, State of Maine, and hereinafter referred to as "Town" through its Board of Selectmen duly authorized by a vote of the Lamoine Town Meeting, and \_\_\_\_\_, County of Hancock, State of Maine and their heirs, successors, and assigns hereinafter referred to as "Contractor".

IN CONSIDERATION of the following covenants, the parties agree that:

- Snow removal & ice control.** The Contractor, or persons acting for the Contractor shall plow and remove snow from and apply necessary salt and brine mixtures to 22.3 linear miles (44.6 lane miles), more or less, of public ways and parking areas in the Town of Lamoine, Hancock County, Maine, consisting of certain town ways and State Aid roads within the boundaries of the said Town and including those specific sites listed below, in accordance with State of Maine snow removal laws. A snow season is defined as the time period between October 15<sup>th</sup> and May 15<sup>th</sup> inclusive, recognizing that occasionally snowfall might occur before or after said dates. Routes and mileage and sites are described as follows:

Road Name	Node Start	Node End	Route #	State Hwy, Town Plowed	Town Road, Town Plowed
Jordan River Road	21996	23710	204	0.73	
Pinkhams Flats	23711	21968	204	1.47	
Partridge Cove Road	21968	21962	204	3.2	
Mud Creek Road	21968	21970		1.87	
Walker Road	21966	21967			0.58
Mill Road	21967	23707			1.21
Needles Eye Rd	21964	21965			1.28
Asa's Lane	21965	23702			0.83
MacQuinn Road	21973	23712			0.39
Seal Point Road	21962	21963			1.88
Walker Road	21965	21967			0.78
Clamshell Alley	22013	23699			0.2
Berry Cove Road	22008	23705			0.31
Raccoon Cove Road	21958	21961			0.66
Maxwell Avenue	21959	24332			0.22
Lorimer Road	24332	21960			0.2
Buttermilk Road	23026	21995			1.99
South Birchlawn Dr.	24104	24105			0.19
Shore Road	23766	23708			2.88
Cos Cob Avenue	24333	23763			0.2
Birchlawn Dr.	21993	21994			0.28
Marlboro Beach Road	21962	21957	204		0.95
<b>Totals</b>				7.27	15.03
Grand Total = 22.3 road miles					

Parking Lots to be plowed:

- a. Town Hall Parking Lot
- b. Fire Department Parking Lot, Including Sidewalk between Lamoine Beach Road and School/Firehouse Parking area
- c. Lamoine Transfer Station
- d. Lamoine Consolidated School\*
- e. Lamoine Beach Park Parking Lot

*\*The Lamoine Consolidated School Parking lots are to be bid and billed separately through the Town of Lamoine but paid by Lamoine School Department.*

2. **Contract Term** – This contract shall commence with the start of the 2018 snow season (October 15, 2018) and terminate with the end of the snow season 2023 (May 15, 2023).
3. **Supervision** – Contractor's snow removal and ice treatment shall be performed to the satisfaction of the Municipal Officers of the Town of Lamoine with respect to local roads, and the Maine Department of Transportation on winter maintained state roads. The judgment of Maine Department of Transportation shall be final. The Lamoine School Department shall supervise snow plowing and removal at the Lamoine Consolidated School Parking area.
4. **Equipment** – The Contractor shall have available for the performance of this contract the necessary equipment to ensure prompt and satisfactory performance of this contract. Such equipment shall be kept in safe and dependable condition. An annual listing of available equipment shall be made to the Board of Selectmen as an appendix to this contract. The Contractor's operating trucks shall be equipped with mobile radio transceivers and/or cellular telephones for communication. The Contractor shall maintain a telephone available 24 hours a day during the snow-plowing season, and supply that number to the Road Commissioner and/or Administrative Assistant to the Selectmen
5. **Labor** – The Contractor or persons acting for the contractor shall hire, test, train, and pay all persons necessary for the operation and maintenance of all equipment required for the satisfactory performance of this contract.
6. **Salt & Sand** – The use of salt, and salt brine, and other material is recognized as the preferred method for ice removal from road surfaces. It shall be up to the contractor's discretion which materials are most effective on each road, and the contractor shall utilize the most effective ice removal method. If sand is to be used, it shall be screened to a maximum gradation of five-eighths (5/8) inch by a power screen. The Contractor shall be responsible for stockpiling any salt, brine, and/or salt/sand mixture at a site to be provided by the Town of Lamoine (referred to as the "facility.") The Contractor shall obtain all such screened sand, salt, and other materials, acting as an agent on behalf of the Town of Lamoine. The cost of materials shall be included in this contract as part of the overall price. The salt, and salt/sand stockpile shall remain the property of the contractor, however, salt and sand stored in the storage building provided by the Town of Lamoine will be used by the contractor exclusively to treat public roads within the Town of Lamoine. Should the contractor be the same contractor performing snow removal on State Route 184, the contractor may store materials for use on that highway in the facility. The contractor may opt to have the town directly pay vendors for the cost of material purchases, with said payments deducted from the contract payments. For the duration of

this contract, the contractor shall be the primary operator of the salt/sand storage facility. The town shall pay reasonable utility expenses. Contractor may utilize electrical service at the facility in order to activate diesel engine heaters. Engine heaters are **not** to be energized more than 12-hours prior to any predicted snow/ice event. The contractor shall maintain the facility in good working order and repair any damage caused during the course of operation. The town shall insure the facility and be responsible for repairs to damage not caused by the contractor. Any modifications to the facility shall be approved in writing by the town through its Board of Selectmen. The town shall provide an operation and maintenance plan to the Contractor who shall follow said plan. Pursuant to the Public Salt/Sand policy initially approved on September 15, 2011, the Town shall reimburse the contractor annually for salt and sand as outlined in said policy.

7. **Times of Removal, Pre-Treatment** – The Contractor shall begin plowing, salting and/or sanding, and snow removal at any and all times when snow, ice or slush have accumulated on the above listed ways (either from snowfall or drifting) to a depth of one and one-half inches (1½"). The contractor shall provide continuous plowing and snow removal until all listed roads are properly cleared of snow. It is preferred that snow and ice be removed to the bare road surface if possible, recognizing that weather conditions occasionally make this impossible.
8. **Snow Removal** – Snow on the above-described ways shall be removed to the outside edges of the shoulders to permit drainage for the road surface. To minimize drifting and provide storage for future storms, the snow banks at the outside edges of the shoulders of the road shall be "winged" back as necessary. Snow banks at all road intersections shall be lowered in order to allow approaching traffic to be able to see oncoming traffic before entering the roadway.
9. **Salt & Sanding** – The Contractor or persons acting for the contractor shall apply salt to any and all portions of any listed roads that may, in the judgment of the Road Commissioner, the Department of Transportation, or any Law Enforcement Agency, require it. If extremely low temperatures render salt ineffective, screened sand shall be placed on the road surface to improve road traction to the greatest extent possible.
10. **Liability Insurance** – The contractor shall purchase adequate and appropriate property damage and liability insurance covering both the contractor and the contractor's employees and the general public. The Town of Lamoine shall be named as an additional insured on the policies. The minimum coverage shall be \$1,000,000 (one million dollars) general liability for each occurrence, and \$400,000 (four hundred thousand dollars) property damage for each occurrence. The Contractor shall provide the Board of Selectmen with a certificate of proof of insurance no later than October 15<sup>th</sup> of each year of the contract. The Contractor shall instruct his insurance company to notify the Board of Selectmen if insurance is cancelled at any time during the contract period. The Contractor shall provide a copy of this instruction to the Town.
11. **Workers Compensation Insurance** – The Contractor shall provide adequate Workers Compensation Insurance coverage in compliance with the requirements of the Industrial Accident Commission of the State of Maine, and furnish the Board of Selectmen proof of such coverage.

**12. Contract Price** – The Town of Lamoine shall pay to the Contractor the sum of:

Plow Season	Cost for Season	Cost Per Mile*
2018/2019		
2019/2020		
2020/2021		
2021/2022		
2022/2023		
Total Cost		

\*In the event of the addition of any local road mileage to be plowed, the contract will be increased by the cost per mile based on said additional mileage (see section 18).

**13. Extraordinary Costs** – In the event that the contractor is faced with extraordinary costs for fuel due either to an abnormally high number of plowing events or an unforeseen increase in the cost of fuel, the town shall reimburse contractor at an agreed upon per the following formula:

- a. Extraordinary events – An event is defined as weather conditions that compel the contractor to plow and/or treat the roads as specified in sections 7-9 of this contract during a 24-hour time span. Should more than 45 events occur in one plow season, the average fuel cost per plow event shall be paid by the town to the contractor up to the limit of this section (see item “d” below). The cost per event is to be calculated by the total fuel cost to the contractor divided by the number of events.
- b. Extraordinary Fuel Cost – In the event that the average price of diesel fuel exceeds a base amount by greater than five-percent (5%) per gallon at the beginning of the plow season during the plow season, the town shall compensate the contractor the difference between the price per gallon and the base amount plus 5%. The base amount at the onset of this contract shall be the New England PADD price as published by the US Energy Information Administration as of October of each year. (For example, if the cost of diesel is \$2.50/gallon in October 2018, the extraordinary cost would be in effect should the price exceed \$2.625/gallon.) The contractor shall determine the number of gallons used per event based on fuel purchase slips to plow the roads listed in the schedule in order to calculate the extraordinary cost. Only fuel costs directly attributable to the scheduled roads shall be used.
- c. Records Required – To be compensated for extraordinary costs, the contractor shall supply the town with a listing of all plow events for the season prior to the last invoice and a record of fuel purchases attributable to the performance of this contract.
- d. Limitation – In no case shall compensation for extraordinary costs exceed five percent (5%) of the annual contract total as agreed in section 12 above. The town shall budget the contract price plus 5% to ensure payment for extraordinary costs is available, if needed. Unused extraordinary costs shall lapse from season to season and be closed into the town’s Road Fund.

**14. Payment Schedule** – The Town of Lamoine shall pay the Contractor upon successful completion of the contract at the following schedule:

## Lamoine Snow Removal Contract

Date	Year 1	Year 2	Year 3	Year 4	Year 5
October 31 <sup>st</sup>					
November 30 <sup>th</sup>					
December 31 <sup>st</sup>					
January 31 <sup>st</sup>					
February 28 <sup>th</sup>					
March 31 <sup>st</sup>					
April 30 <sup>th</sup>					

Should the Contractor opt to use the joint salt purchase program and purchase salt in the name of the Town of Lamoine, payments for salt shall be made by the town and deducted from the payment schedule above. The Town of Lamoine shall provide an accounting to the Contractor showing the invoice and payment deductions for salt.

15. **Provision of Salt/Sand Use**—In the event the Contractor, the contractor's heirs, successors or assigns are unable to perform the obligations of the contract, the Contractor agrees to provide the Town with complete use of the screened sand, salt, and other materials remaining in the town's storage facility for the remainder of the current snow removal season.
16. **Equipment Inspection** – The Contractor shall permit the Municipal Officers to inspect all equipment used for the plowing and removal of snow and sand application when they deem it necessary. In the event a piece of equipment is believed to be inadequate, the Contractor and Municipal Officers may engage the opinion of a neutral 3<sup>rd</sup> party to determine the adequacy of the equipment. Decisions of the 3<sup>rd</sup> party shall be final.
17. **Performance Review** – Annually, following the snow season, the contractor shall meet with the Board of Selectmen to review issues that may have occurred during the previous plowing season. The review will include any complaints received during the plow season, any damage caused to the salt/sand shed or private property, the number of snow removal events, and any suggestions on ways to improve contract performance.
18. **Amendments** – This agreement may be amended only by a written memorandum executed and signed by all affected parties. In the event the town might add mileage within the duration of this contract, the same mileage rate as agreed to earlier in this contract (section 12) shall apply to any new mileage amendment.
19. **Breach of Contract** – If the Contractor fails to perform according to the terms of this contract at the time and in the manner specified, that failure shall be a breach of contract. In the event of a breach the Selectmen shall immediately give oral notice to the Contractor. The Contractor will then be required to perform within a reasonable time. "Reasonable time" may vary depending on the nature of the breach and the road and weather conditions. In the event the Contractor still does not (for whatever reason) perform the duties in the time stated, the Town shall have the following options:
  - a. **Terminate the Contract** – The Selectmen may terminate its portion of the contract by sending the contractor written notice, stating the reason for termination. The Contractor will be paid for all work which is satisfactorily done by that time, but the remainder of the money due the Contractor under this contract may be used to obtain another contractor to maintain the roads.

**b. Substitution** – The town may hire a substitute contractor to plow and sand the roads for any period of time the town considers necessary. The town may also seek any other legal remedies available to enforce this contract.

20. **Indemnification** – The Contractor agrees to hold the Town harmless from any claim for death, injury, property damage or other loss which may result from the Contractor's negligent or intentional performance or non-performance of road maintenance under this contract. In the event such a claim is made against the Town, the Contractor will defend the Town and pay any amount (indemnify) for which the Town may be held liable in a legal action for such claims.

21. **Severability** – If any section of this contract is found to be illegal invalid or unenforceable by a court of law, it shall not render any other section of this contract invalid, and all other sections shall remain in full force and effect.

22. **Independent Contractor** – The Contractor is considered an Independent Contractor and is solely responsible for compliance with all state and federal income tax law, Workers Compensation laws, drug and alcohol laws, and traffic safety laws. The Contractor shall ensure compliance with all Commercial Vehicle operation laws, including participation in a drug and alcohol-testing program for licensed commercial vehicle operators. The town assumes no liability for testing or follow up procedures to ensure Contractor's compliance with the laws. The employees and the Contractor are in no instance considered employees of the Town.

23. **Notice** – In the event the Contractor must make notice to the Town under this contract, the Contractor shall contact first the Road Commissioner of the town. If contact is unsuccessful, the Contractor shall contact the Administrative Assistant to the Board of Selectmen. If contact with either is unsuccessful, the Contractor shall contact the Chairman of the Board of Selectmen. If the chairman is unavailable, the Contractor shall contact any member of the Board of Selectmen.

24. **Integration Clause** – The above contract embodies the entire agreement between the parties hereto with appendices as noted in sections 4, 14 (if applicable), and 16 (if applicable), and proof(s) of insurance.

**IN WITNESS WHEREOF** the parties of the Agreement have executed the same on the day and date aforesaid.

WITNESS	SELECTMEN, TOWN OF LAMOINE	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Lamoine Snow Removal Contract

WITNESS

CONTRACTOR

DATE

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*Printed Name*

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*Printed Name & Title*